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6 UNITED STATES DISTRICT COURT

7 EASTERN DISTRICT OF WASHINGTON

8 NATIONAL ELECTRICAL ANNUITY
9 PLAN,

Plaintiff,

10 vs.

11 SHAWNA T. ROYBAL et al
12 Defendants.

No. 1:15-CV-3213-MKD

ORDER DENYING DEFENDANTS'
CROSS-MOTIONS FOR
SUMMARY JUDGMENT

ECF Nos. 46, 49

13 BEFORE THE COURT are Defendant Roybal's Motion for Summary
14 Judgment (ECF No. 49) and Defendant Hill's Motion for Summary Judgment
15 (ECF No. 46). The Court heard argument on October 11, 2017. Jeffrey Maxwell
16 appeared by telephone on behalf of Plaintiff National Electrical Annuity Plan
17 (NEAP). Tyler Farmer appeared on behalf of Ms. Roybal. Russell Gilbert
18 appeared on behalf of Mr. Hill. The Court, having reviewed the briefing, the
19 record, and files therein and heard argument, is fully informed. For the reasons
20 discussed below, the Court denies Ms. Roybal's motion (ECF No. 49) and denies

1 Mr. Hill's motion (ECF No. 46).

2 **JURISDICTION**

3 This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1132(e)
4 and 1132(a)(3)(B)(ii).

5 **PROCEDURAL BACKGROUND**

6 The parties have filed cross-motions for summary judgment. ECF Nos. 46,
7 49. As part of the briefing of those motions, Ms. Roybal sought partial summary
8 judgment. ECF No. 58 at 2. The Court heard argument on the motions on October
9 11, 2017. During argument, Defendant Hill conceded that Ms. Roybal is entitled
10 to at least half of the proceeds of Ronnal Hill's NEAP account. Based on this
11 concession, Ms. Roybal filed a subsequent motion for partial summary judgment,
12 reiterating some of the claims raised in her initial motion for summary judgment.
13 ECF No. 76. Mr. Hill filed an objection on procedural grounds but did not dispute
14 Ms. Roybal's factual and legal entitlement to partial summary judgment. ECF No.
15 81. The Court granted the motion for partial summary judgment in a separate
16 order. ECF No. 83. The Court now addresses the remainder of the issues raised in
17 the parties' cross motions for summary judgment.

18 **STANDARD OF REVIEW**

19 Summary judgment may be granted to a moving party who demonstrates
20 "that there is no genuine dispute as to any material fact and the movant is entitled

1 to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The moving party bears the
2 initial burden of demonstrating the absence of any genuine issues of material fact.
3 *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The burden then shifts to the
4 non-moving party to identify specific facts showing there is a genuine issue of
5 material fact. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 256 (1986).
6 “The mere existence of a scintilla of evidence in support of the plaintiff’s position
7 will be insufficient; there must be evidence on which the jury could reasonably
8 find for the plaintiff.” *Id.* at 252. For purposes of summary judgment, “[i]f a party
9 fails to properly support an assertion of fact or fails to properly address another
10 party’s assertion of fact as required by Rule 56(c), the court may . . . consider the
11 fact undisputed.” Fed. R. Civ. P. 56(e)(2); *see also* L.R. 56.1(d).

12 A fact is “material” if it might affect the outcome of the suit under the
13 governing law. *Anderson*, 477 U.S. at 248. A dispute concerning any such fact is
14 “genuine” only where the evidence is such that the trier-of-fact could find in favor
15 of the non-moving party. *Id.* “[A] party opposing a properly supported motion for
16 summary judgment may not rest upon the mere allegations or denials of his
17 pleading, but must set forth specific facts showing that there is a genuine issue for
18 trial.” *Id.* (internal quotation marks and alterations omitted); *see also First Nat’l*
19 *Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 288-89 (1968) (holding that a party
20 is only entitled to proceed to trial if it presents sufficient, probative evidence

1 supporting the claimed factual dispute, rather than resting on mere allegations).

2 Finally, in ruling upon a summary judgment motion, a court must construe
3 the facts, as well as all rational inferences therefrom, in the light most favorable to
4 the non-moving party. *Scott v. Harris*, 550 U.S. 372, 378 (2007); *see also Tolan v.*
5 *Cotton*, 134 S. Ct. 1861, 1863 (2014) (“[I]n ruling on a motion for summary
6 judgment, the evidence of the nonmovant is to be believed, and all justifiable
7 inferences are to be drawn in his favor.” (internal quotation marks and brackets
8 omitted)).

9 **UNDISPUTED FACTS**

10 NEAP is an employee pension benefit plan, governed by the Employee
11 Retirement Income Security Act of 1974 (ERISA). ECF No. 1 at 2-3. NEAP’s
12 Plan of Benefits (Plan) contains the governing rules, regulations, policies, and
13 procedures for payment of benefits under NEAP. ECF No. 47 at 5; ECF No. 73
14 at 8. The Plan affords “full discretionary power and authority to construe and
15 interpret the provisions of this Plan, the terms used herein, and the rules,
16 regulations, and policies related thereto.” *Id.* at 25-26.; ECF No. 73 at 27.

17 Ronnal L. Hill (Participant) participated in the NEAP Plan through his
18 employment. ECF No. 1 at 3. On or about November 14, 2009, Participant
19 submitted a NEAP Normal Benefit Application, in which he selected a fifteen
20 year payout of his NEAP account. *Id.* Included in Participant’s Normal Benefit

1 Application was a Designation of Beneficiary and Spouse Consent Form
2 (beneficiary form). ECF No. 53 at 7. Participant completed certain fields on the
3 beneficiary form, including the name, relationship to, and birthday of intended
4 beneficiary with the information of his daughter Shawna Roybal. ECF No. 52 at
5 34. Participant did not sign the beneficiary form. *Id.* Instead, Participant's
6 daughter Ms. Roybal signed the beneficiary form in the section designated for
7 Participant's signature. *Id.* Participant signed two other pages in the benefits
8 application. ECF No. 53 at 10-11.

9 NEAP's trustees approved Participant's application for benefits. ECF No.
10 1 at 3. Participant died on December 7, 2014, with an outstanding NEAP
11 account balance of approximately \$400,000. *Id.* On January 22, 2015, NEAP
12 informed Ms. Roybal she was the designated beneficiary of Participant's NEAP
13 account. ECF No. 52 at 100. On February 6, 2015, Ms. Roybal submitted an
14 application for NEAP benefits. ECF No. 52 at 9. On February 18, 2015, NEAP
15 informed Ms. Roybal that the beneficiary form was invalid because it lacked
16 Participant's signature. ECF No. 56 at 7.

17 NEAP's Plan specifies that in the event an unmarried participant dies
18 without having designated a valid beneficiary, the participant's children are
19 entitled to equal shares of the NEAP account. ECF No. 47 at 18; ECF No. 73 at
20 19-20. Participant was not married, and Ms. Roybal and Mr. Hill are Participant's

1 only surviving children. ECF No. 1 at 5; ECF No. 43; ECF No. 52 at 92.

2 **A. Deference to NEAP's Discretion**

3 ERISA fiduciaries must distribute benefits “in accordance with the
4 documents and instruments governing the plan.” 29 U.S.C. § 1104(a)(1)(D). “[I]f
5 a plan grants the administrator discretion to interpret it or to determine benefit
6 eligibility, a court will uphold such interpretation or determination if reasonable.”
7 *Becker v. Williams*, 777 F.3d 1035, 1040 (9th Cir. 2015) (citing *Firestone Tire &*
8 *Rubber Co. v. Bruch*, 489 U.S. 101, 103 (1989)). However, if a plan administrator
9 declines to award benefits to competing claimants and instead files an interpleader
10 action, the administrator “impliedly decline[s]” to exercise its discretion. *Becker*,
11 777 F.3d at 1041. When the administrator fails to exercise its discretion, the court
12 reviews *de novo* the question of who is entitled to benefits. *Id.*

13 Here, NEAP's Plan gives the trustees “full, discretionary, and exclusive
14 power and authority ... to determine all questions of coverage and eligibility” for
15 benefits. ECF No. 47 at 25-26; ECF No. 73 at 27. However, upon realization that
16 Participant did not sign the designation of beneficiary form, NEAP declined to
17 award benefits to Ms. Roybal as the sole beneficiary. ECF No. 56 at 7. NEAP
18 also declined to award equal shares of Participant's account to Ms. Roybal and Mr.
19 Hill, despite the fact that both parties submitted proof that they are Participant's
20 legal heirs. ECF No. 1 at 5; ECF No. 43. Instead, NEAP filed the present

1 interpleader action. ECF No. 1 at 6-7. Filing an interpleader action implies
2 NEAP's trustees declined to exercise the discretion they are otherwise entitled to
3 exercise. *Becker*, 777 F.3d at 1041.

4 This case differs factually from *Becker*, in that the administrators in *Becker*
5 filed the interpleader motion after receiving competing claims for benefits. *Becker*,
6 777 F.3d at 1037. Here, NEAP initially notified Ms. Roybal that she was the
7 designated beneficiary. ECF No. 52 at 100. Shortly thereafter, NEAP notified Mr.
8 Hill that Participant had a designated beneficiary on file other than Mr. Hill. ECF
9 No. 52 at 102. Only after this correspondence, and after Ms. Roybal submitted an
10 application for benefits, did NEAP determine that the beneficiary form was invalid
11 and filed the interpleader action. ECF No. 48 at 53. Despite the factual
12 dissimilarities, the rule set forth in *Becker* controls. In determining when a plan
13 administrator has exercised discretion, the Ninth Circuit seems to draw the line at
14 the act of awarding benefits. *Becker*, 777 F.3d at 1041. Although NEAP contacted
15 Ms. Roybal, it never approved her application for benefits or awarded her the
16 funds. ECF No. 48 at 53. Moreover, NEAP did not jointly award benefits to Ms.
17 Roybal and Mr. Hill and instead filed an interpleader action. Therefore, NEAP's
18 Trustees declined to exercise its discretion to determine the appropriate
19 beneficiaries in this case. Thus, the Court will review *de novo* whether Ms. Roybal
20 was validly designated as a beneficiary.

1 **B. Force of Plan Documents**

2 When reviewing competing claims to ERISA plan benefits, the Court should
3 consider the plan documents. *Becker*, 777 F.3d at 1041. “An ERISA fiduciary
4 must distribute benefits ‘in accordance with the documents and instruments
5 governing the plan.’” *Becker*, 777 F.3d at 1038. “[O]nly those documents that
6 elucidate ‘exactly where [the participant] stands with respect to the plan—what
7 benefits he may be entitled to, what circumstances may preclude him from
8 obtaining benefits, what procedures he must follow to obtain those benefits...” are
9 plan documents. *Id.* at 1039 (citing *Hughes Salaried Retirees Action Comm. v.*
10 *Adm’r of the Hughes Non-Bargaining Ret. Plan*, 72 F.3d 686, 690 (9th Cir. 1995)).

11 Here, the NEAP Plan grants significant deference to NEAP’s administrators
12 to interpret the Plan and determine benefits. ECF No. 47 at 25-26; ECF No. 73 at
13 27. NEAP’s Plan provides that if a participant dies unmarried and without
14 designating a valid beneficiary, the participant’s benefits shall be distributed
15 equally among the participant’s living children. *Id.* at 18; ECF No. 73 at 19-20.
16 However, the Plan itself does not specify what steps a participant must take to
17 designate a beneficiary. Notably, the Plan does not state whether the participant’s
18 signature is required on the beneficiary form in order to designate a valid
19 beneficiary.

20 Mr. Hill asserted at oral argument that a signature requirement for the

1 beneficiary form exists if the Plan is read together with the Summary Plan
2 Description, including the sample beneficiary form contained therein. The Ninth
3 Circuit has held that designation of beneficiary forms like this one are not “plan
4 documents” under ERISA. *Becker*, 777 F.3d at 1039-40. Summary plan
5 documents are also not plan documents. *CIGNA Corp. v. Amara*, 563 U.S. 421,
6 438 (2011). Even if Mr. Hill can identify portions of these documents that can be
7 read together to imply a signature requirement to validly designate a beneficiary,
8 the documents Mr. Hill identifies are not entitled to the force of plan documents.
9 The Trustees were not bound to rely on these documents in determining a
10 beneficiary, and the Court similarly is not bound.

11 The Court is left to consider the Plan itself, which does not specify how to
12 designate a beneficiary. ECF No. 47 at 5-29; ECF No. 73 at 8-30. In such a
13 situation, the Court is to apply the equitable doctrine of substantial compliance to
14 determine whether Participant validly designated Ms. Roybal as his beneficiary.
15 *See Becker*, 777 F.3d at 1041.

16 **C. Applicable Law of Substantial Compliance**

17 “ERISA is a comprehensive statutory scheme designed to govern employee
18 benefit plans, which provides that it ‘shall supersede any and all State laws insofar
19 as they ... relate to any employee benefit plan’ covered by the statute.”
20 *BankAmerica Pension Plan v. McMath*, 206 F.3d 821, 828 (9th Cir. 2000).

1 However, ERISA does not “expressly govern[] disputes between claimants to plan
2 proceeds.” *Id.* When a dispute over ERISA benefits turns on a question of
3 substantial compliance, ERISA does not preempt state law. *Id.* at 828-30.
4 Therefore, the Court must apply the law of the forum state. *Id.*; *see also Erie*
5 *Railroad v. Tompkins*, 304 U.S. 64, 78 (1938).

6 Here, the question of whether Participant validly designated Ms. Roybal as
7 his sole beneficiary turns on whether Participant’s actions rise to the level of
8 substantial compliance. Therefore, this Court applies the law of the forum state,
9 Washington, in order to determine substantial compliance.

10 **D. Washington Law of Substantial Compliance**

11 In Washington, courts can act in equity to enforce an attempted change in
12 beneficiary if the insured “has substantially complied with the provisions of the
13 policy regarding that change.” *In re Estate of Freeberg*, 122 P.3d 741, 743 (Wash.
14 Ct. App. 2005) (internal citations omitted). Substantial compliance is
15 demonstrated by the participant having “manifested an intent to change
16 beneficiaries and done everything reasonably possible to make that change.” *Id.*
17 Therefore, the question in this case becomes whether the Participant manifested an
18 intent to designate Ms. Roybal as the beneficiary of his NEAP account, and
19 whether the Participant did everything reasonably possible to do so.

20 “When confronted with the fact-specific inquiry of determining a deceased's

1 intent, the failure to complete simple, mundane tasks undermines [the
2 participant's] alleged unequivocal desire to change his beneficiary.” *Becker*, 168
3 F. Supp. 3d at 1328. A review of Washington’s case law, however, does not reveal
4 a requirement that a document must be signed in order to requisite intent for
5 substantial compliance. *See Freeberg*, 122 P.3d at 744 (insured’s in-person oral
6 request to change IRA beneficiary and investment agency’s failure to do so was
7 substantial compliance); *Allen v. Abrahamson*, 529 P.2d 469 (Wash. Ct. App.
8 1974) (insured’s act of giving parents insurance certificates but making no written
9 request to insurance company did not substantially comply with insurance
10 company’s policy requiring written notice of change); *Sun Life Assur. Co. of*
11 *Canada v. Sutter*, 95 P.2d 1014, 1017 (Wash. 1939) (unsigned letter clearly written
12 by decedent substantially complied with plan requirement of written notice to
13 change beneficiary).

14 The Court finds the question of Participant’s intent and the determination of
15 whether he did everything reasonably possible to effectuate his intent present
16 outstanding issues of fact that are inappropriate to resolve on summary judgment.
17 In considering a motion for summary judgment, the Court is to consider the facts
18 and draw all rational inferences therefrom in the light most favorable to the non-
19 moving party. *Scott v. Harris*, 550 U.S. at 378. Here, both Defendants moved for
20 summary judgment.

1 A genuine issue of material facts exists as to Participant's intent when he
2 completed certain aspects of the beneficiary form identifying Ms. Roybal as his
3 sole beneficiary, but did not sign it, and then submitted it to NEAP as part of the
4 application. Moreover, the rational inferences to be drawn from viewing the
5 evidence in the light most favorable to each defendant support each defendant's
6 separate positions. If all rational inferences are drawn in Ms. Roybal's favor, a
7 reasonable trier of fact could conclude Participant intended to designate Ms.
8 Roybal as his beneficiary by his actions of completing some of the beneficiary
9 form in his own hand, signing other portions of the application, and submitting the
10 application to NEAP. Alternatively, if all rational inferences are drawn in Mr.
11 Hill's favor, a reasonable trier of fact could conclude Participant did not intend to
12 designate Ms. Roybal as his beneficiary because Participant correctly completed
13 other portions of the application calling for Participant's signature.

14 Moreover, the Court finds that the proffered evidence presents evidentiary
15 and credibility issues that are inappropriate to resolve on summary judgment. For
16 example, the evidence regarding Participant's 2012 will (ECF No. 48 at 55) and
17 Ms. Roybal's deposition testimony regarding this document (ECF No. 48 at 25-26)
18 can support a rational inference in favor of each defendant. Mr. Hill offers this
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1 document as evidence of Participant's testamentary intent to treat all¹ of his
2 children equally. ECF No. 46 at 27. Ms. Roybal stated that this document was the
3 product of a "mock meeting" meant to pacify the concerns of Participant's other
4 children without revealing Participant's true intent to designate Ms. Roybal as his
5 beneficiary. ECF No. 48 at 25-26. A reasonable trier of fact could conclude from
6 this evidence that Participant did in fact intend for Ms. Roybal to be his sole
7 beneficiary, and the 2012 meeting was meant to hide this intent from Participant's
8 other children. An equally reasonable inference from these events is that
9 Participant's failure to sign the NEAP beneficiary form reflects Participant's intent
10 to treat his children as equal beneficiaries and constitutes an attempt to once again
11 conceal his true intent from a beneficiary, this time Ms. Roybal. The parties'
12 competing interpretations of these events raise issues of fact and credibility that are
13 not appropriate to resolve at summary judgment.

14 The Court finds similar outstanding issues of material fact exist regarding
15 the reasonableness of Participant's actions as they relate to substantial compliance.
16 Based on the current record, viewed in the light most favorable to each opposing
17 party, neither defendant is entitled to judgment as a matter of law on the issue of
18

19 ¹ Defendant's other alleged child, Christopher Hill, could not prove paternity in this
20 case and was dismissed as a defendant. ECF No. 44.

Participant's substantial compliance with NEAP's procedure to designate a beneficiary. *Celotex Corp.*, 477 U.S. at 323.

CONCLUSION

The Court finds that neither Defendant has not met their burden of demonstrating the absence of any genuine issues of material fact, which precludes summary judgment.

Accordingly, **IT IS HEREBY ORDERED:**

1. Defendant Roybal's Motion for Summary Judgment (**ECF No. 49**) is **DENIED.**

2. Defendant Hill's Motion for Summary Judgment (**ECF No. 46**) is **DENIED.**

3. The District Court Clerk is directed to enter this Order and provide copies to counsel.

DATED December 1, 2017.

s/Mary K. Dimke
MARY K. DIMKE
UNITED STATES MAGISTRATE JUDGE